

TOWN OF FOXBOROUGH  
SELECTMEN'S MEETING  
MINUTES  
MARCH 17, 2015

Members Present: Lorraine A. Brue, Chairman  
John R. Gray, Vice Chairman  
Virginia M. Coppola, Clerk  
James J. DeVellis  
David S. Feldman

Others Present: William G. Keegan, Jr., Town Manager  
Ms. Mary Beth Bernard, Assistant Town Manager  
Mr. Mark Powers, 44 Prospect Street  
Ms. Jess Enos, NPS, LLC  
Mr. George Bell, Stadium Advisory Committee  
Mr. Jeff Sienna, MIIA  
Mr. Roger Hill, DPW Director  
Mr. Mike Stanton, Water & Sewer Commissioner

The meeting was brought to order at 7:00pm by Chairman Lorraine Brue.

Ms. Brue read the agenda.

**7:00pm – Citizen's Input**

Mr. Powers stated he read in the Foxboro Reporter last week that the size of the class in the protective custody case has been reduced but then he read the article and was a little confused by the quote from the attorney so his question is are we still in a class action suit or not and a class-action suit in terms of that particular case. Mr. Gray asked if he was referring to the Weldner–Dutton case which he responded yes. Mr. Keegan stated that it was his understanding that it was not a class action suit, that part of it has been dismissed by the judge but the case itself is going to go forward for trial. Mr. Gray asked how many plaintiffs there were in which Mr. Keegan responded three.

**7:02pm – Selectmen's Update**

Ms. Brue wished everyone a Happy St. Patrick's Day

She just wanted to point out when she was in town hall there were a whole bunch of letters from students who were thanking our DPW for doing such a great job with all the snow and the roads so she thought that was really great that the schools were reaching out to our town employees so she wants to send a thank you out to the schools.

### **7:03pm – MIIA – MIIA Loss Control Award – Jeff Sienna**

Mr. Keegan introduced Mr. Jeff Sienna who is the Safety Director for the MIIA Program. This year the town of Foxborough received an award at the annual MMA meeting in Boston and Mr. Keegan thought it was important to not just accept the award on behalf of the town but also on behalf of the employees who did so well and actually generated this award. This award is actually for the employees who did this fine work and it is interesting to him because so often they don't really take the time to thank everyone for doing the work that they did and this is an opportunity to try and do that.

Mr. Sienna stated every year at their annual meeting they present awards representing those towns that have shown exceptional commitment to loss control and risk management. They have 370 members approximately in the program and they only give out nine awards. It is recognition for what the town has done. Foxborough is one of those towns that has had a heavy commitment to this for a long time. You have an Executive Loss Control Committee made up of just about every representative from every town department head including the school department and they meet on a monthly basis and reviews claims and losses, discuss what happened and how it happened and how you can prevent them from happening again as well as coordinates the training activities that they provide outside of the MIIA Program and also coordinates the MIIA Rewards Program because the town gets money back by doing certain trainings. In FY14 the town had about \$41,700 in rewards credits which is being applied to this year's insurance premium. So that makes a pretty significant reduction in what you have to pay for insurance.

Mr. Sienna would also especially like to recognize the Executive Loss Control Committee because they do a lot of work and meet on a monthly basis and a lot of the members are here now and they deserve a lot of the credit for the program they have put together and also the employees for going along with the training programs and participating freely, this makes a big difference.

Mr. Keegan asked the committee to step forward. The committee introduced themselves. Mr. Keegan thanked Mr. Sienna as well as the committee. Mr. Keegan stated the committee did a great job in the last year and he is really grateful and a job well done.

Ms. Brue accepted the award and presented it to the committee.

### **7:05pm – Action Items**

Motion by Virginia Coppola to approve the Application for the Foxborough Youth Baseball and Softball Parade on Saturday, April 11, 2015. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to nominate Sue Thibedeau to be the Inspector of Animals for Foxborough per Mass General Laws 129, Section 15 & 16 for a term beginning May 1, 2015 and ending on April 30, 2016. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to nominate Steven Feinstein, 3 Standish Avenue to the Norfolk County Advisory Board for a term expiring on August 1, 2015. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the acceptance of the Foxboro Fire Department of a donation of \$50 from Arthur and Anne Robertson. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to appoint Kenneth Torres to the Playing Fields Committee for the term expiring on May 1, 2016. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the donation of \$300 from the Foxboro Lions Club to the Boyden Library. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the Board of Selectmen meeting minutes of November 12, 2014 as written or as amended. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the Board of Selectmen meeting minutes of November 18, 2014 as written or as amended. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the Board of Selectmen meeting minutes of November 25, 2014 as written or as amended. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the Board of Selectmen meeting minutes of December 9, 2014 as written or as amended. Seconded by John Gray. **Vote 5-0-0**

Ms. Coppola stated that in reviewing the minutes a few things came to mind and one was that they were going to review their liquor license regulations and another was the commercial parking lots and also the one with Waxy's for the new manager, Mr. Karnbach, he was going to come back for a review in three months to see how things were going and that was in December so we should bring them in just to see how things were going.

Ms. Coppola asked if they could set aside time to go over the liquor license regulations and the commercial parking lot regulations. One of the things were if the Board was going to do criminal charges they should put that in the regulations that they may be subject to criminal charges and also they can't change the hours of operation, they have to have a separate hearing for that.

Regarding the commercial parking lots, what do they do if people are over parking, is it going to be a fine or what is it going to be. Also, what if it is a commercial establishment that has their own parking for the people going into the store, the parking should be delineated somehow.

Mr. Keegan asked the Board how they wanted to proceed in amending those, do they want a sub board working on these and then bring them back or would they rather just have them work on them and present them to the Board.

Ms. Coppola stated that she had worked with Chief O'Leary on the satellite parking lots a little earlier so if you want to do it that way working with them.

Ms. Brue work with Chief O'Leary in revising the liquor regulations so they could get back together.

Mr. Gray asked if this could be packaged up in two weeks and Mr. Keegan stated probably 30 days out.

Ms. Brue asked if they could catch up on posting the minutes online.

**7:25pm – Public Hearing – NPS, LLC – New England Revolution Soccer Games, Jess Enos, NPS, LLC**

Ms. Coppola read the public hearing notice.

Ms. Enos stated she was here to apply for the 2015 New England Revolution season for 17 home matches with the first game being March 21, 2015 and the last game being October 25, 2015 and hopefully they will run into the postseason as they did last year.

This application is just for the New England Revolution home matches and then any match that may come up in this year that is an international match that is part of a doubleheader.

They are in the process right now of finalizing some international play and when those are finalized they will come before the Board again because those will all be standalone matches, they will be licensed separately.

Their home opener is March 21, 2015 which is this weekend and closing at the end of October and they are requesting the standard timing, lots two hours before kickoff and gates one hour prior.

Their pricing has changed just a little bit this year, and went up about three dollars per ticket and they range in price from \$26-\$74. The league has a different initiative this year with regard to pricing so there are a lot of other price points out there as part of the youth outreach and group sales so these are the ticket prices if you were to walk up to the ticket office on the day of the match and buy a ticket.

There really aren't any significant changes; parking is included in the price of the ticket. The set up in the stadium is the same as in previous years using the midfield seating in the 100 level and they will be using 2 to 3 sections in the North End Zone for general admission seating.

They do have some construction projects right now going on at the stadium and none of those spaces will be in use for the New England Revolution matches. To keep a cohesive soccer match for their fans they want to make sure that the fans stay in those seats and stay in those sections for broadcast purposes and just for the overall atmosphere.

There aren't any significant changes to their overall operation this year.

Mr. Gray asked if the number of home games were the same as last year in which Ms. Enos had stated yes.

Ms. Brue asked if they would still be selling alcohol in which Ms. Enos responded yes.

Mr. Keegan stated that he has been working with the stadium on their insurance and their actual renewals don't take place until May but they have given them all the coverage that they need up until June 30, 2015 and then there is actually a 120 day notice requirement if they were going to cancel, which would extend beyond that June 30, 2015 date as well. Attorney Davis is actually reviewing all the policies with him so if there are any concerns they will know about that as soon as possible.

Ms. Enos stated that that 120 day notice in the language was actually drafted by Attorney Davis.

Mr. Gray stated that he thought the Board had made a few years ago a condition that the insurance be in place. Mr. Keegan stated that was beyond July 1<sup>st</sup> and they are aware of that.

Ms. Enos stated that the way the municipal policies work is the earliest she can get them is in May.

Motion by Virginia Coppola to close the public hearing on the 17 games for the New England Revolution. Seconded by John Gray. **Vote 5-0-0**

Motion by Virginia Coppola to approve the application for NPS, LLC for 17 New England Revolution Soccer Games at Gillette Stadium for 2015 subject to the insurance renewal for games after July 1<sup>st</sup>. Seconded by John Gray. **Vote 5-0-0**

### **7:30pm – Sewer Capacity Presentation – Mike Stanton/Roger Hill**

Mr. Keegan stated that this is the second meeting and he is still trying to get the recommendations from both attorneys. Mr. Keegan stated that both the attorneys are still talking trying to figure out how the language should be proposed. They've talked about placing language that would limit the approval process and Mr. Keegan still wants to get more input from the Board on this. They talked about putting limits on the approval process limiting any capacity that would be sold outside the borders of the community but the Board of Selectmen would have to give secondary approval to that process. Both counsels have communicated that they are working on that piece right now. There were a lot of questions on the overall sewer capacity of the town and so Mr. Hill actually took it upon himself to put together a lot of information. Mr. Keegan worked with him on the presentation piece and so Mr. Hill will go through it all for the Board of Selectmen.

Mr. Hill stated the first day he start working for Foxborough 3 ½ years ago he attended his first IMA meeting that night and the discussion at that time and the prior four years had been working on trying to craft an agreement that would work for three towns. Needless to say this involved

many hours of discussion and a lot of cooperation. The Foxborough Water & Sewer Commission supported an agreement that created additional sewer capacity for the town and also gave them the right to use the unused Title V capacity that they had attempted to obtain through legal process twice in the past, unsuccessfully. When the agreement was near completion with that proviso included they then concentrated on how to fund Foxborough's share of the costs to make mandated improvements to the existing plant and the expansion costs. Twice before the town had voted not to fund any sewer betterments so it became their task to determine an alternative funding mechanism that would not burden existing customers unreasonably. The final outcome of that effort was a plan to fund their program through the sale of the unused Title V capacity. When the final agreement was signed on July 1, 2014 they had the right to sell that unused Title V capacity. The expansion capacity would become available when the expansion was completed but simultaneously with all this work they determined the quantity of unused Title V capacity and any impediments that they faced to obtaining that capacity from contract customers. The following pages that the Board of Selectmen have that were developed in 2012 describe the results of that process. Every step of that determination was vetted by town counsel and special counsel to obtain certainty of the volume and any costs necessary to obtain that capacity. The second page of the handout given to the Board of Selectmen summarizes that capacity volume. The table basically lists the entity that holds capacity, the amount of capacity they hold, the average use of the making of that capacity and any access or deficiency that might be persistent. These are annualized figures for one whole year which Mr. Hill did for 2012. Since that time there has been very little or no change in that. They sold a tiny bit of capacity to several people that are in the sewer district now that asked for additional capacity but they have not sold a lot more.

Ms. Brue asked under the section of "Entities" the Foxboro Company, industrial sanitary, the 55,000 excess, is that excess owned by the Foxboro Company. Mr. Hill stated he would get to that on the next page.

Mr. Hill stated they have asked questions to every one of those to their town counsel and they asked their counsel to review all of the contracts that Foxborough held with existing customers. The contracts they have were not in their records, they were obtained from the Town of Mansfield. Lee Azinheira, Public Works Director of Mansfield stated that he had made a compendium of all the contracts that Foxborough owned 1993. Mr. Hill got the information from him because he couldn't find it in our own records.

Mr. Hill stated the next page represents the total capacity that they would have if they didn't sell any.

Mr. Hill stated on the third page, two attorneys from two different firms both agreed that Foxborough owns all of the unused capacity except for that contract to Skanco. Skanco was the outfit that developed Cannon Forge and Quail Ridge. Skanco presently owns the Sharon portion of Cannon Forge's sewer capacity and a small amount of the Foxborough portion. Skanco's contract allows the town to buy back sewer capacity at a fixed rate of \$5.87 a gallon per day. Skanco has recently indicated a willingness to sell this unused capacity to the town at that rate (letter on file to that effect). Mr. Hill stated what does that mean for the future, when they developed the IMA agreement it became obvious that Foxborough's share for the capital costs

would require plant improvements and the expansion costs needed to be capitalized by selling the excess Title V capacity. Foxborough's share of the capital costs for a new plant in the expansion is estimated at \$5 ¼ million dollars, this is pretty close to being accurate. The total estimate for the plant is \$30 million and their share of it is 21%. Mr. Gray asked if the \$5.87 per gallon is per year. Mr. Hill stated no, it is gallons per day, but you only pay that \$5.87 per capacity once. If the town were to sell 121,500 gallons of excess capacity the revenue from that would offset the entire costs exclusive of interest. If they were to sell that much capacity in 2015 and 2016 there would be no appreciable interest and they would have paid off the entire cost. A small amount of 12,500 gallons per day was requested by the Planning Board and has been designated for the west side of the common area. They are seeking a grant to pay for the installation in the infrastructure that would be needed to service that area. Mr. Keegan stated the cost of that is about \$300,000. Mr. Hill stated that he does not want to quote costs here because any costs he gives them are off the top of his head. They need engineering studies to determine costs.

Mr. Hill stated what this means for the future is that Skanco right now controls 72,951 gallons per day of unused sewer capacity in Sharon. That capacity was sold to Skanco at the time with full knowledge that it was to serve a portion of their future needs in Sharon. A change in the size of Skanco Development eliminated a number of units which then reduced the need for much of its allotted sewer capacity. That capacity can only be sold back to the Town of Foxborough by Skanco or its successors. Municipal sewer capacity cannot be sold to any other entity under state law. If the town wants to buy that excess capacity the total cost would be about \$430,000. Mr. Keegan asked if everyone was clear on this, that the excess capacity is about 73,000 gallons at \$5.87 a gallon in which it amounts to about \$430,000. Mr. Hill stated they have a little bit more, about 5,000 gallons of excess capacity in Foxborough also and they would probably buy it all at some point in time. Mr. DeVellis asked if Quail Ridge was separate in which Mr. Hill responded that the 72,000 gallons is all Quail Ridge and 5,000 gallons in the Foxborough part of Cannon Forge. The town could then sell that capacity at a new value of \$3.15 million. This added value could be used to finance the debt for the new plant leaving only a small amount of debt of approximately \$170,000. By selling 100,000 gallons of excess capacity from Skanco Development to a different Sharon entity at an additional 35,000 gallons to the Fisher Street project it would leave the town with a sewer capacity balance, which is a Title V sewer capacity balance of 133,000 gallons which would cover any need that Schneider Electric might have in the future to expand their facility; right now they are not using very much sewer capacity.

After completion of the new sewer plant the town would receive an additional 170,000 gallons for a total sewer capacity of 303,351 gallons and that would be with the sale of 135,000 gallons before that. That estimated value is about \$13,100,000. By selling the excess capacity to a Sharon developer the proceeds would pay off the plant expansion debt and leave the Enterprise Fund with an additional amount of \$512,000 which would be a welcome addition because right now they don't have a lot of excess capital in sewer.

Mr. Hill stated then there is a way to get capacity through new technology. Mr. Keegan stated to be clear on this, this is based purely on the addition of the new plant capacity and the remaining capacity but there is a possibility over the next 4-5 years they could add new capacity just by the next few steps that could be taken in which Mr. Hill responded yes. Mr. Hill stated that one of

the steps is in process now and they are going to do An INI (Inflow & Infiltration) of the towns area of sewer and a good portion of the sewer that supplies downtown Foxborough now is in clay pipes and anyone that has ever dug up 50-year-old clay pipes knows that there are leaks in the system and they need to do the INI to be able to repair that either by repairing those pipes or replacement or whatever way they can but they don't have the capital to do it right now. Mr. Keegan gave an explanation of Inflow and Infiltration which means they have clean water getting into the system and as a result they are trying to remove that clean water so that they don't treat that unnecessarily because there is a cost to treating that clean water, in which Mr. Hill stated yes and that the IMA agreement specifies that from now on Foxborough doesn't pay for water that goes into the system via estimated quantities, they have to meters on all of their outflows and they pay for what goes to the plant, so the less water they send to the plant the less money the ratepayers have to pay. Mr. Gray asked if there is water leaking in wouldn't it make sense that the water is also leaking out. Mr. Hill stated unfortunately he would like to say yes but parts of the downstream part of their sewer system are good and tight; it is the R35 plastic pipe with tight joints. It is mostly coming from the common area, the old Main Street area, and the old Central Street area. Whatever water gets into those pipes is going to end up at the plant sooner or later especially if the water table is above the pipes; water can't leak out of the pipes if the water table is above the pipes. Ms. Coppola asked if they upgrade the pipes so that the additional water isn't going through the system, that just means that there is less flow going into the plant so how can he say any additional unused capacity; we are not gaining any capacity that we can sell. Mr. Hill stated that they can prove that it is not going into the system they can sell the additional capacity that is created by that. Ms. Coppola asked how we can create capacity if it is not; it just means that freshwater is not going to the system. Mr. Feldman stated that the infiltration is counted as sewage flow if you mitigate the groundwater from getting into the system you're not treating that as added sewage. Whatever you are taking out of the infiltration will be determined as excess capacity. Mr. Hill gave an example. Let's say that the allocated capacity for the downtown sewer system is 264,630 gallons, they are not using that right now, they are using most of it but they aren't using all of it. If they take flow out of the system for that area then they still have the 264,630 gallons allocated but they are only using a smaller portion of that, and that becomes excess capacity that they can use and that they can sell. Mr. Hill stated that it is just simple math and that it can be done, and it is done all the time.

Mr. Hill stated another way to increase capacity is that the requirement now, which is a mandate, that every new development has to use low flow devices for everything (toilets, flow restrictors in toilets) and things like that. The old things that we have in town doesn't have that ability but they have an abatement program in the Water Department that if people put in low flow restrictors that they get a \$100 rebate for putting them in if we can prove that they put in the low flow toilet. That will reduce the amount of sewer that goes through the lines over time and create a little bit of additional capacity.

Mr. Hill stated right now they have about 270,000 unused capacity and once the new plant comes online they will get another 170,000 gallons for a total of about 440,000 gallons. Excess capacity from Sharon Development will allow the town to resell that capacity. By selling 80,000 to 100,000 gallons to an entity and Sharon will allow the town to pay off a good portion of its share of the debt for the new plant and not burden the existing sewer ratepayers which there are only about 965. Unfortunately when they did the presentation on this he thinks only Mr.

DeVellis and Ms. Brue were on the Board but they had shown what that would do to the existing ratepayers if they couldn't find by selling capacity the rates more than doubled for the existing ratepayers.

Mr. Hill stated that is really the whole story on capacity and modernization, that 500,000 buffer would allow them to do things that really need to be done with the system. It is an old system in the downtown area and the Cannon Forge length is really well-built, it is the R35 pipe and the new manholes and it is in really good shape.

Mr. Keegan stated that the 270,000 gallons is available to us today and we can actually generate additional capacity in the system over the next five years just by doing the things we talked about, INI, metering, low flow devices which could add to the capacity for that 270,000 gallons. The new capacity, it's about five years before you'll see the new capacity added to the system, the new 170,000 gallons, before the plant is finalized.

Mr. Hill stated there are probably other things that would be of interest to the Board also. The Water & Sewer Commissioners struggled with this. When originally the plant expansion and the repairs to the existing plant were designed to create 1 million gallons per day of additional capacity in that plant and Foxborough's share of that at the time was going to be 250,000 gallons; the whole board struggled with that because they were very worried about their ability to use that amount of capacity in a timeframe that would allow them to absorb the debt service for what it was going to cost them to do their share of the expansion. At that time the Town of Easton came to the IMA Commission and asked to buy capacity in the plan. In the IMA Agreement there was a clause to allow each town that is in the plan to sell portions of their capacity to other towns if they needed to. Mr. Hill asked Bill Ross and the Mansfield people if they could lay off about 75,000 gallons of that 250,000 gallons that they were responsible for to Easton and they had long discussions on it and they finally decided as a group that it would be better for Mansfield to lay off back capacity because there is a direct physical connection between the town of Mansfield and the Town of Easton and there is no direct connection between the Town of Foxborough and the Town of Easton. Easton is actually going to get 100,000 gallons from Mansfield but they will not become a member of the IMA, they will just be a customer of Mansfield.

There is another clause in the IMA Agreement that allows any town in the agreement to sell capacity to other towns, in other words we could sell capacity back to Mansfield or we could sell to Norton. Crossing the boundaries was not an issue with the IMA.

Mr. Hill stated those are the facts of everything they did and how they did it.

Mr. Keegan asked if the 73,000 gallons of capacity that exists in the Skanco Development currently exists in Sharon in which Mr. Hill stated it was sold to an entity that is in Sharon. Mr. Keegan stated theoretically the idea is to buy back that capacity now at the review stage and then turn around and sell it back at the higher rate which would generate the funding. Mr. Hill stated if they were to consummate a deal with someone in Sharon. Mr. Keegan stated that he is just trying to walk people through this because it is important because some of that capacity is already designated to be outside the community as it is now. Mr. Hill stated at the time that

Skanco made the agreement in 1986 with the Town of Foxborough they were also required to do a full downstream analysis all the way from the furthest most entity in Sharon to the Mansfield plant. They know that the sizing and capacity of the lines that go all the way from there to the plant are big enough to take all of that flow.

Mr. Keegan stated that the question he has is in Mr. Hill's presentation we know we have a balance potentially to be sold to an outside Sharon entity but right now there is already potentially an existing 73,000 gallons, is there any idea where the 100,000 gallons comes from. Mr. Hill stated that was just initial discussions that they had a long time ago with the developer. Mr. Keegan stated the 35,000 gallons they talked about earlier is the 35,000 gallons only an estimate at this point in time for the flow. Mr. Hill stated yes, if they develop less than the 248 units their capacity need would go down.

Mr. Keegan stated this is just full disclosure and he wanted everyone to be aware of these things because at the end of the day the issue that is really before the Board for consideration right now is not this issue per se it is the idea if the issue does come up later on what authority is in place to make that happen and currently what has been proposed by the Water & Sewer Commission is to clarify the authority that is currently in the town charter. Mr. Hill stated it is because there were two different attorneys that had two different opinions on that. Mr. Keegan stated that the discussion points they had up until this evening is the way to address that concern because selling capacity outside the community of course is controversial so the question is what is the best way to regulate that so it just doesn't follow one board's perspective and the idea would be to have the Water & Sewer Commission identify that potential and then bring it to the Board of Selectmen for a dual approval process. So again, it would be the Water & Sewer Commission making a recommendation for the capacity to be sold and then the Board of Selectmen would have final approval of that decision being sold outside the community. Mr. Keegan stated that is the thinking at this point in time and that is where the Board needs to have further discussion.

Mr. DeVellis stated that they spent a little time on the IMA and he asked if they could spend a little time talking about the CWMP. Mr. Hill stated the CWMP was done specifically for the purpose of identifying for expansion. Mr. DeVellis stated when we got to the IMA it codified the agreement and we were customers but now we are partners, critical needs addressed the other part as the expansion in economic development and economic growth so before we start looking at selling it to other towns for their economic growth what has happened since the CWMP is the Town did a Master Plan and it was pretty clear that the ambitions of most of the town was the development along Route 1. Has anyone taken that CWMP and sat with the Planning Board and said here is all the acreage and lots and then equate that back to what sewage flow would be needed up there because right now there is no direct connection to any of the areas. Mr. Hill stated he believes that Econ did that at the time of the development of the CWMP. The unfortunate part of the CWMP is that it identifies mostly residential areas that have disposal problems. Mr. DeVellis stated if you look at the Route 1 area they have individual systems or Patriot Place has a large septic area so the options are to either expand that or do more of those or go up Route 1 and tie into the MWRA or take a line and then bring it down and connect into our system. Mr. DeVellis stated before we get too far into selling flow to other towns wrap our arms around what is needed. He thinks a discussion is needed with the Zoning Board of what they are looking at on Route 1 and the Master Plan and figure it out so we are not selling this to Sharon

and then five years later Foxborough was short on flow. Mr. Hill stated that it is a fair discussion and back three years ago he looked at what it would take to provide linkage and it's about 3 miles and it would have to be done by a series of lift stations because they wouldn't be able to do it all by gravity and the cost was astronomical. Mr. DeVellis stated after looking at more hotels and restaurants and things like that 3 miles of some piping versus a treatment plant; Mr. Hill stated it is more than that, it's 3 miles to get into the existing system but then the existing system isn't big enough to take that additional flow so it would require updating of the flow path all the way from where we are now through Brett's field and through Norton to the plant. Mr. DeVellis stated you could put holding plants in and do it off-peak. Mr. DeVellis asked if anyone has had those discussions with the Zoning Board and Planning Board. Mr. Stanton stated they have had those discussions internally and they fell back on the 235,000 gallons a day and they were just looking at the big number. That was rejected twice in big part because the 235,000 gallons was rejected by people who didn't want to be forced on to it. Mr. DeVellis asked if this was the betterments in which Mr. Stanton responded yes. Mr. Stanton stated the Planning Board asked for 12,500 gallons and they had said fine and they've looked at analysis' who the likely customers are and they really wrestled with what was the minimum amount they had to commit to, to get a seat at the table in the new IMA. They were scratching their heads saying where are we going to sell the stuff, it was a real problem. Mr. Stanton stated his personal opinion was that they really had to look at commercial and industrial and if Mansfield takes off they had to have that option to lay flow back on them and keep their seat at the table. If something comes up in Sharon that makes sense they are going to do that but the thing is they have entered into a rather risky venture committing to this and having no governmental police powers to ensure payment. Mr. DeVellis asked if someone would speak to the Zoning and Planning Boards to see what is planned on Route 1 and then equate that to gallons that may be needed because a lot has changed in nine years. If you have done it internally it would be nice to reach out to the other boards that are working on this.

Ms. Coppola stated Kathy McCabe who was working with the Planning Board on the Master Plan has done an analysis recently and according to her analysis there could be economic development within the borders of the town that would take up 200,000 gallons so Ms. Coppola's question is if this was sold to the town for economic development plus taking care the critical needs in the town but also the economic development why would we want to sell outside of town right away before we have explored the possibility of economic development in the Town of Foxborough. She knows their concern is the ability to sell flow but she would think that selling out of town would be once the needs of the Town of Foxborough are taken care of and that if we have something left over then it can go outside town. Mr. Gray stated when they said risky, and it is risky, they have a \$5.2 million due a lot sooner than economic development will come to Foxborough and that is the unfortunate aspect of this, because it would be better if we had a mechanism that could wait until the economic development in Foxborough began to bloom that we could have capacity ready for them. Mr. Feldman stated we don't have the infrastructure for it in place. Mr. Hill stated we don't have any funding for infrastructure. Right now the Sewer Enterprise Fund doesn't have a lot of excess cash in it. Mr. Stanton stated an important part here is that he rejects the premise of her statement that this was somehow sold to the town for economic development the fact of the matter is this plan was going to be rehabbed and they had less than 1,000 customers who are going to bear the brunt of that cost. The

emphasis was to buy into the expansion, re-address a lot of the issues where they were a customer and now they are a partner in a dollar cost average spread the burden.

Mr. Gray stated they were looking to see if there was a marriage between this plan and the Master Plan where they had economic development nodes and if they were to be fully built out what sort of flow would they require; he is not seeing a connection. The other question he had is how many discussions are underway right now to sell flow, how many different entities is the Water & Sewer Commission talking to potentially to sell flow. Mr. Hill stated very few. Mr. Hill stated they have no hard line on any major commercial sales. Mr. Gray stated he is assuming that now that we have flow other entities are beginning to want to buy that. Mr. Hill stated they have touched base with them but nothing concrete. Mr. Hill stated that the Board's position has been if you want to buy capacity you have to pay for it upfront, they are not going to make a deal with someone unless they get the cash. Mr. Gray stated he is thinking that they have competing visions and he thinks the Board of Selectmen are saying they have to look at 20+ years in the Town of Foxborough and say what is there economic growth going to be and they need capacity to be there if a company wants to move in and put a world headquarters up on Route 1. The Water & Sewer Commission's vision is that they have an urgent need to come up with cash to pay their obligation. Mr. Stanton stated that is the only vision they can have right now. Mr. Stanton stated in order to get this done they have surrendered any hope of using any governmental police powers to ensuring guarantee of the payment.

Mr. Keegan stated that something that he and Mr. Hill talked about was once you start doing a formal INI program and start taking care of some of these changes that are actually required by the systems now, we could generate a significant amount of additional flow (potentially several thousand gallons) that could be actually used into the system for additional capacity. He would like them to think about this from the broader spectrum in that we have 440,000 gallons of potential capacity within the next five years; 270,000 gallons of Title V capacity, and 170,000 gallons of new capacity plus whatever capacity they generate through tightening up the system. Theoretically you are looking at less than half a million gallons of capacity. The amount that is being looked at through the Town of Sharon potentially is about 100,000 gallons which would still leave the Town of Foxborough with a significant amount of capacity that could be used for economic development purposes. Mr. Keegan fully appreciates the perspective of let's not sell ourselves short here because they have potential in several areas around town for economic development (the downtown area, Foxfield Plaza, and Route 1). Route 1 development has some capacity that is coming out of the Gillette Stadium area but clearly if we can sell capacity here and help generate some of that development along Route 1 that is another plus for us. Mr. Hill stated that there are some other concerns about Route 1 that don't involve sewer, but they involve water and they haven't looked at those because there hasn't been a lot of pressure for a new water supply up there but the Board needs to know they are not going to get another straw in the ground for any water supply; whatever we have now is what we will have 50 years from now as far as the DEP is concerned. We have to maximize the resource we have available now and that is a different entity because it is going to require them to really upgrade their wells and treatment plants capacity but at the same time there are only so many gallons that they can give-and-take either way and water may be the limiting factor instead of sewer to supply Route 1. They are reusing water right now to avoid taking new water into their system.

Mr. Gray asked if the \$5.25 million could be bonded in which Mr. Hill responded yes. Mr. Gray stated that will give us some more time to realize economic development. Mr. Hill stated yes, but what is going to happen right now is that it's going to take about nine more months for the final design to be completed by CDM, when the final design is completed there is about a year of permitting and at that point once they get the permits then they are going to start construction and three years to build. Part of the build is \$18.25M to make mandated upgrades to the existing plant. The other part is new capacity that is created in the plant, the 1M gallons of capacity. The IMA is going to short term borrow for the construction phase while they are going through bonding. As soon as the IMA short-term borrows the Town of Foxborough's debt to the IMA goes up. Mr. Keegan stated we usually have a band where you are only paying the short-term interest so the payment is less. Mr. Hill stated true, but it is more than they pay now. Mr. Hill stated right now we don't have the capacity to pay more without raising rates. Mr. Gray stated right now the catalyst contemplating selling flow elsewhere is to pay money on this \$5.25M; if that were bonded it could delay the process or at least spread it out and picking the number of years. Mr. Hill stated they have to sell some capacity now because they have nothing now. Mr. Gray stated he is looking for a happy median, they may have to sell some now but they could reserve more for Foxborough and let economic development begin.

Mr. Feldman stated they have 170,000 gallons to play with because they know they are getting that back within five years. You are looking to sell 108,000 gallons. Mr. Feldman stated they have 258,000 gallons a day in excess right now so if you took 170,000 gallons that would still leave 62,000 gallons in excess capacity and of the 268,000 gallons they would still have 98,000 gallons in reserve access capacity so within five years their capacity would be 303,000 gallons if you did nothing else. We don't have the infrastructure in place and that's going to cost money. Anything we do on Route 1 is going to require state participation because it is a state highway, Mr. Feldman doesn't think we can afford to wait. He thinks we need to have some flexibility in giving that excess capacity to raise some revenue to pay off some of this debt. Mr. Gray stated that Mr. Stanton had stated before that there has been no history of it but that is because there has not been any sewer. Sewer drives economic development. Mr. Feldman stated that we have sewer but we don't have the infrastructure. Mr. Gray stated that is what bonding is for. Mr. Stanton stated no, that's the whole point he doesn't want to run a mile and a half of sewer by my house that I don't need to service a half a dozen houses down on the reservoir. Mr. Stanton stated this has been rejected in history and is not in their favor.

Mr. Keegan wanted to address Mr. Gray's point that they had actually touched upon it earlier in the presentation that once you have some reserve built into your fund which is potentially \$500,000 that they will have if they were to make the sale based upon what has currently been described; there could be different elements to it, but by and large the way it is structurally presented right now it is about \$500,000 you have in reserve. You could use that to start developing some of that infrastructure so in short what we don't have right now is the pipes to carry which is really the challenge. Mr. Keegan stated that if you see economic development some of that will be offset by the developer. Mr. Hill stated if it is a big commercial developer you can usually do that. Mr. Feldman stated and also to get them to pay for some of the INI. Mr. Hill stated since he has been here they've had two entities walk away from Foxfield Plaza and there is a third looking at it now, but they had two entities walk away and they weren't a town customer and in the district. Right now they have 6,000 gallons a day of capacity that they

bought a long time ago but when you start to see these entities walk away you start to say is there ever a real sale there. Mr. Hill stated he has one customer down there that has asked to be put into the district and they can be and they are willing to pay for that. The other customer that might be real and may not be is the 40B project down on Fisher Street. If that comes in they are close to sewer but they are going to have to do a downstream analysis because that part of the district goes into the old flow not into the Cannon Forge lines. They also have six people who are on Morse Street that already front on sewer that want to get in but they are single-family dwellings, relatively minor capacity and the other 40B project that is about to be approved on Community Way would be getting into sewer, they only have 20 units. Ms. Brue asked how much that would use in which Mr. Hill responded they would come in at 4,000 gallons. You can't fund single families ahead, it has to be funded by commercial development.

Mr. DeVellis asked how much flow Sharon Commons is looking for. Mr. Stanton stated in loose conversations he has had with them he is thinking 125,000 gallons a day. Mr. DeVellis asked if they were ready to start the application process immediately in which Mr. Stanton responded no. Mr. DeVellis stated he was just going by the letter that they had sent to the Water & Sewer Commission which they stated they would like to start the application process, and they have been around for a while. Mr. Hill stated that he had asked them to show them and what they were going to do because he is not going to pick numbers out of his head. Mr. DeVellis stated if they have a developer in Sharon that is knocking at the door saying they want to start the application process I would want to know what they are there for. Mr. Hill stated he has only been to one meeting so he doesn't know much about the project but he has seen the 40B project's schematic plans and he knows that they want 248 single-family units and they were estimating 25,000 gallons a day but they looked at it and said no, it is 35,000 gallons a day so he has not seen any plans of Sharon Commons. He doesn't know what they want to put in there and until he sees what they intend to put in he is not going to predict the gallons per day. Mr. DeVellis stated that is where the quandary is right now because the Board doesn't know what they're asking. Mr. Hill stated there is a willingness on the part of Board to give powers to the Board of Selectmen to make a final determination on those kinds of things. Mr. Keegan stated once they get to that point that is really the only question in front of the Board right now, what they've talked about so far is just the background that is still in flux at this point. The decision point is whether or not this Board would support an article at town meeting that would clarify the powers of how flow can be purchased. Mr. DeVellis asked if it was not just taking the Board out of the equation but also taking town meeting out of the equation. Mr. Keegan stated it would still have to go to town meeting to approve that authority so if the Water & Sewer Commission wanted to sell any type of capacity outside of the borders of Foxborough, it would require additional approval by the Board of Selectmen. Mr. Gray stated that's how it exists presently in which Mr. Keegan responded no. Mr. Gray asked to be reminded how it reads presently. Mr. Hill stated when he first came on board the town was in the process of establishing a DPW and at that time the Board of Water & Sewer Commission controlled all of the employees in the Water & Sewer Department, they weren't under the control of the town manager, they were under the control of the Water & Sewer Commission in the Town Manager at that time wanted those employees to be under the Town Manager. He went to the Board of Water & Sewer Commissioners and he suggested that they needed an article and legislative action to transfer the authority for the employees to the Town Manager and at the time the DeRensais firm wrote that article and wrote the modifications to the document that the state had to pass through the legislature to do that, Jay

Barrows took it through and it got approved. The Board of Water & Sewer Commissioners thought that this didn't change the other powers of the Water & Sewer Commission with respect to the sale of capacity, water, explorations and all the things you have to do to run that department. However, the special counsel that they hired later on differs from what DeRensais says and he said this transfers all of the powers of the Water & Sewer Commission to the Board of Selectmen ergo the Town Manager because he works for you. Right now all the things that they have done since the time that that legislation was passed and town meeting voted for it have the potential for failure. The Board signed the IMA because they thought they had the full power to do it and they have written opinions from DeRensais stating they could do it but their special counsel said maybe not. This article that was put forth was to try to clear that up so that there was not a potential somewhere down the road for someone to challenge everything that has been done up until this point. That is the real purpose of that warrant article. As far as the sale of sewer capacity that is only one of the many powers that we are talking about. The Board is perfectly willing Mr. Hill thinks to give some of that power to the Board of Selectmen.

Ms. Brue asked about the sheet that had the entity with the excess calculation on it, over the years they were told that there was no capacity in Foxborough because the Foxboro Company owned that excess capacity and was not willing to transfer it. On the sheet it is listed as excess but it is owned by them. Mr. Hill stated that's what he thought also because Mr. Paicos had told him the same thing but in fact both counsels say that the Town of Foxborough owns all of the excess capacity in the sewer system except for that \$5.87 deal that they have to buy Skanco's capacity. Mr. Hill has read every single one of the agreements and none of them speak to who owns capacity but the Skanco one does. It is a question for all of them but Mansfield recognizes the fact that they have a whole bunch of unused Title V capacity. Ms. Brue asked if anyone has spoken to the Foxboro Company and if they think they own it. Mr. Hill stated they spoke to them a long time ago and they are not going to try to negotiate or do anything with the Foxboro Company's capacity, we would leave it alone. Ms. Brue thinks they should take it out of the excess total, in which Mr. Hill stated he would. Ms. Coppola stated that it was her understanding that they wouldn't sell it because it was considered by them to be an asset. Mr. Hill stated that is possible however, no private entity has the right to sell any capacity to another entity, only the Town of Foxborough has the power to sell.

Ms. Coppola stated getting back to Sharon Commons; they are saying that it is just this nebulous plan. Mr. Hill stated he has not seen anything that they are going to do and until he does he is not going to be ready to accept any numbers. If they come in and want to buy a reasonable amount of capacity and they pass this warrant article they will bring it to the Board of Selectmen and the Board is probably going to say to them make a determination that it is the right amount of capacity. Ms. Coppola stated that she was told at the last MAPC meeting the Town of Sharon announced that Sharon Commons is a go and the Town of Foxborough is selling sewer to them, which was said by the Town Manager and also representatives from the Town of Sharon so it sounds like Sharon thinks it is a go. Mr. Hill stated they have never spoken to them. Ms. Coppola remembered going to one meeting early on and it was she and a couple of the Planning Board members that were there and when it was mentioned of the possibility of selling flow to the Town of Sharon, the Planning Board objected to it and she sat up because it was selling flow to another town. Why would we sell an asset to another town for economic development that would be competing with the economic development to the Town of Foxborough. Ms. Coppola

stated that was when she first started going to the meetings and she has been going for over a year. Ms. Coppola stated they knew then that the Planning Board was questioning the wisdom of that and that's why they wanted to carve out that 12,500 gallons a day because they were afraid that maybe the sewer capacity would be sold. Mr. Stanton stated they should've asked that particular question.

Mr. DeVellis stated that it may be a little confusing because the letter does say from their counsel to the Water & Sewer Commission's Special Counsel they have had several meetings on this in which Mr. Hill responded they haven't.

Mr. Stanton stated the bottom line is to get this thing going they have to sell flow whether it is in the Town of Easton, Mansfield or Foxborough, he doesn't want to deal with the alternative which is go bust and have this all going on the tax rate.

Ms. Brue stated that they are talking about a major town asset which is flow, you have another major town asset out there which is the water tank out on Route 1 so she knows in the past there have been occasional discussions about what is going to happen with that, if they go this route she would like to see that considered as possibly part of what would be considered another asset and that the Board of Selectmen weigh in on terms of future decisions on that. Mr. Stanton stated that was a very broad statement and what did she mean, content. Ms. Brue stated in the same way that they would weigh in on the sale of flow. Mr. Stanton stated they would have to because he believes if someone wanted to come in and see the water tank, the Board of Selectmen have to sign off on that license if it gets to that point. Mr. Keegan stated they would need to clarify that.

Ms. Brue stated that her only concern is in the statement of the excess capacity. It is not without some potential questions about ownership or about the reality of it; they may have to buy some of this and it is not excess that they have access to easily so if she took out the Foxboro Company they have access to 171,000 gallons and then they have the rest that is coming in and again just pulling that together to see what's really the minimum that could be considered to be sold to a neighboring town. Mr. Hill stated he could do that but it is a hard answer for the minimum that can be sold. Ms. Brue stated they must have their plans and they must know especially since the attorneys have been talking. Mr. Hill stated they need to clarify the article to the point where it is not challenged by someone down the road.

Mr. Keegan stated he wanted to be clear about the fact that everything that is being said tonight is important but it's not the critical discussion point. The critical discussion point is where does the authority lie and that has to be resolved in the meeting. Everything that has been discussed here tonight will actually be discussed at another point once that authority has been clarified. Mr. Hill stated if they clarified the authority and then they get some real buyers in the Town of Foxborough that can give the Board and the Board of Selectmen a little bit more level of comfort about the future, that may happen in the short term because there are things that are happening out there right now that may change the equation. If the 40B gets approved and Foxfield Plaza becomes a reality it takes the pressure off.

Ms. Brue asked Mr. Keegan when they would be able to see the language. Mr. Keegan stated the two counsels have been working on that right now and they should be able to see it at the next meeting. Mr. Stanton stated they are going to the Advisory Committee on April 1, 2015. Mr. Stanton stated the article has already been created so it just needs to be tweaked.

Mr. Keegan thought it was important to have this discussion tonight so that everyone is clear about what this all means but he doesn't want to confuse the main issue which is discussion of authority and who has what. All that discussion that we have had tonight can be had when the opportunity presents itself.

Mr. DeVellis stated as it stands now with no changes the Board of Selectmen has the authority and if they have the authority they have the ability to sign it and it still has to go to town meeting. Mr. DeVellis stated if this warrant article wasn't brought in front of them and they wanted to sell 100,000 gallons to the Town of Sharon right now how does that get handled? Mr. Keegan stated that our present attorney has not weighed in on that and that's what they are waiting for now but the former attorney, Deutsch Williams does not have the authority, it is challengeable.

Mr. Gray asked if they do not have the ability to enter into contracts does that default to the Board of Selectmen. Mr. Keegan stated he believes it does. Mr. Hill stated that this means that all of the authority of the Water & Sewer Commissioners goes to the Board of Selectmen. Mr. DeVellis stated whether or not it is by default it comes to the Board of Selectmen, they agree and they sign it to an outside entity, does town meeting need to codify that at a town meeting. Mr. Keegan stated no. Mr. DeVellis stated so the Water & Sewer Commission are changing that to take it away from the Board of Selectmen so they can sign a contract and sell it. Mr. Keegan stated to be clear they had that authority before and that changed in the 2013 amendment. Ms. Coppola stated when the IMA went through and the town meeting approved it, town meeting approved it with the proviso that anyone that wants to be part of the sewer district has to get approval by town meeting. That is inside the town but what this is, is a contract for selling outside of the town. Mr. Hill stated that he didn't mean to disagree with Ms. Coppola, but what the Water and Sewer District Map was set up to do was to define a sewer district and the Board of Water & Sewer Commissioners voted to have the sewer district encompass existing customers only, Skanco is an existing customer. There is sewer going to Sharon right now and Skanco is an existing customer so the capacity that Skanco has is already in the sewer district, it doesn't require a vote at town meeting. Ms. Coppola stated she's not saying it does but to do a contract requires an executive decision and the people that do a contract are the ones with the new executive power right now because of the amendment to the Town Manager's Agreement that executive power rests with the Board of Selectmen. Mr. Hill stated that is the truth however another attorney says it isn't.

Mr. Keegan asked does the Board of Selectmen really want to do the job of the Water & Sewer Commissioners, he doesn't think that was really the intention. The only thing that he sees that makes sense out of that piece is that the Board of Selectmen should have a weigh in on the authority if capacity is to be sold outside of the borders. On the operational side it has been their authority for 30+ years and he doesn't think it was truly the intention to expand that authority to go beyond that.

Mr. Gray stated that if there was an arrangement with the Board of Selectmen and the Board of Water & Sewer Commissioners were co-involved in the process, it is a check and balance and Mr. Gray thinks they need that. Hopefully the language will come up with a good check and balance and then he thinks they will all be happy.

Mr. Keegan stated they will have that language on March 31, 2015.

Ms. Coppola stated that one of the things they spoke about tonight was possible developments; is it possible to have the Planning Board come before them with just a review of the Master Plan and also are they coming to their meetings because they are the ones that hear about development first so maybe we will have an idea of what the future development is going to be. Mr. Keegan stated they can ask them to come in. Mr. Keegan stated that he has had the same conversation with the Town Planner and all that is at this point is potential but not real development. Mr. Keegan stated that it was a discussion point that if you look at the center of the community and you start doing additional rings around the center of the community that is additional development potential but it doesn't mean it is real development. Ms. Coppola stated she would like to hear from the Planning Board to find out who is coming in before their meetings. Mr. Keegan stated he is not aware of any specific developments in which Mr. DeVellis responded Foxfield Plaza does have a purchase and sale agreement so if they want to put a supermarket there that is easily 10,000 gallons and they are allocated for 2,000 gallons there. Mr. Hill stated they've only gone before them to inquire how to go about acquiring capacity.

Mr. Henderson, 3 Fieldstone Rd., stated that he was on the Board of Water & Sewer Commissioners for 12 years and was chairman for 11 years and he appreciates all the work Mr. Hill has done trying to hit this moving target. It is a little frustrating for him sitting and hearing the different numbers; initially it was 250,000 gallons of excess capacity and in front of that comment was 200,000 gallons and they had a meeting on February 3, 2015 with Mr. Hill that Ms. Coppola put together with the Town Manager and it was 50,000 gallons at that time. When we started this meeting tonight it was 268,000 gallons was available and now with the caveat for the Foxboro Company it is down under 200,000 gallons. It is very tough to try to comprehend and understand this process with those numbers changing constantly. Mr. Henderson thinks it is important when they are talking about who has the authority but he also thinks getting a handle on the sewer is very critical also and do we actually own that capacity. It is very hard for him to believe that someone paid for a value of 30 years and they can just use the example of the Cabot, Cabot and Forbes, they paid the fixed cost of 80,000 gallons per day for 30 years. They built equity in that 80,000 gallons and now the town takes it back for nothing and then sells it at a premium for +\$40 a gallon. Mr. Henderson does not see a private entity giving up that equity without a fight or without some sort of reparations. The prime example would be Cabot, Cabot and Forbes has 32,000 gallons available, we take it back as a town and a pharmaceutical company wants to go in there and use that 32,000 gallons Cabot, Cabot and Forbes has to pay \$1.5 million for that flow, is that what is going to happen. Mr. Keegan stated according to the current agreement that flow would not be taken away from them; it would have to be sold back to the town at the fixed rate which is in the agreement now which is \$5.87 a gallon. Mr. Henderson stated Cabot, Cabot and Forbes has a private contract for 80,000 gallons for 30 years and they paid the fixed cost of that equity and now we're taking that at no cost and they want to use 32,000 gallons three years from now they have to pay \$1.5 million under this scenario. Mr.

Hill stated that they bought 80,000 gallons of Title V capacity. Mr. Henderson stated that they paid the fixed cost for those 80,000 gallons for 30 years. Mr. Hill stated what he is showing here is flow not Title V capacity. Mr. DeVellis stated that the actual is half of Title V. Mr. Gray stated what Mr. Henderson is saying is that they had the expectation that they could keep it. Mr. Henderson stated he does not see anything in writing, the Foxboro Company is walking away from this flow, that Cabot, Cabot and Forbes is walking away from this flow and that even Foxfield Plaza is walking away from the 2,000 gallons, they may be using it for the development they need. Mr. Hill stated that is why they asked the legal opinions from two different attorneys. Mr. Henderson stated he is not here to argue the point, he is just here to bring up the point and get this resolved. They should get something in writing from the Foxboro Company because what if they sue the town this is just a point he wanted to put out there for discussion.

The other point that was discussed this evening was INI, they completed the INI in the downtown area when they did the rehab of downtown and when he was on the Board in 2005 they were exceeding that 264,000 gallons and now we're down to 232,000 gallons. INI is good but don't expect as much because they have already done a phase of it so you are not going to find that pot of gold. They have already done the INI and remediation and that's why those 264,000 gallons is down to 232,000 gallons. We have seen that benefit but he thinks we should be realistic that we may not get much more because we have already gone through a phase of INI.

The last thing that Mr. Henderson wanted to bring up was we are selling flow from the existing plant and he thinks that the revenues from selling that existing plant flow should first go to pay the debt off to the existing users or the existing plant and then worry about the expansion second. We are selling off at \$44 a gallon the existing plant flow and that should first pay off the upgrade to the existing plant. That should be a priority for the debt and then whatever is left over to ease the pain of the existing flow rate payers who are actually carrying this load that should be paid off first and then whatever is left talk about the expansion. Mr. Hill stated that Mr. Henderson is exactly right but both have to be paid at the same time. That is the way that the IMA Agreement is structured. Mr. Henderson stated they have 900 users out there and 500 of those are residential that will be carrying the burden of this 268,000 gallons of excess flow because the ratepayers are paying for that flow to the plant and he is not seeing any benefit from that. He's just saying that when we sell this flow the town money should first go to the debt. Mr. Hill stated technically it does, it is just that it is all paid together.

### **8:55pm – Spring Warrant Articles**

Ms. Bernard stated that the spreadsheet in front of the Board there is a column towards the right that says "Date Sent to AdCom" so those are the ones that they have already checked off that have gone through the Board of Selectmen and AdCom has voted on them. There are a few outstanding ones that she wanted to call the Board's attention to.

### **Item #6 – Personnel Bylaw**

They are looking to wait and discuss that as late as possible with the Board the reason being the Personnel Wage Board is still having ongoing discussions. The document still reflects all of the

positions that are in the Steelworkers group that is currently unionizing so the document is in flux which is something that is later on in the agenda which is the Steelworkers contract the has to come to fruition in April. They are putting this on hold because the document could look very different depending on a contract or not.

#### **Item #9 – DPW Contract**

They are scheduling that for March 31, 2015 with the Board. They have reached a tentative agreement and it is going to the union for ratification on March 23, 2015 so they will be bringing it to the Board of Selectmen on March 31, 2015 and then AdCom on April 1, 2015.

#### **Item #18 – Publishing of Town Warrant**

Ms. Bernard stated the Board has a copy of that article. This has been drafted by new town counsel and amends Section 30-2, Subsection C and it inserts language that says “posted electronically on the town website as the Selectmen shall deem appropriate”. So in the event that they have a 70 page town warrant like they did with the sign bylaw this will allow them to post the document on the website instead of publishing pages and pages in the newspaper. The cost was \$7,000 to do that last year. This allows them to have the opportunity to have it electronically available. Mr. Gray asked if we would still publish a condensed version in which Ms. Bernard stated yes. Mr. DeVellis asked if this gives them the choice of going in the newspaper or publishing it electronically in which Ms. Bernard stated yes. Ms. Bernard stated the Board of Selectmen can choose. This will protect us in case if there is a large town warrant article. Ms. Brue stated that the newspaper article could refer people to the town website in which Ms. Bernard stated yes and also where hardcopies would be located. Ms. Coppola stated that they want to put in the warrant article that hardcopies would be available prior to the meeting because she is afraid that somewhere down the road someone will say we only have to put it on the website we don’t have to do those hardcopies at the library or the town hall. Ms. Bernard stated she thinks it’s implied but they can write that also. This will go to AdCom pending the Board of Selectmen’s approval.

#### **Item #23 - Land Taking**

Ms. Bernard stated because Mr. Hill was available at the last AdCom meeting he explained it to the AdCom so Ms. Bernard wanted to make sure the Board of Selectmen saw it as well. Ms. Coppola stated that AdCom was upset about the word “Taking”, they were concerned that people would be upset about taking private property and she had thought Tracey had mentioned about changing the title of it. Ms. Bernard stated that she was not there for that discussion. Ms. Coppola stated that they wanted to soften it because people were worried about the eminent domain. Mr. Gray stated that they wanted “Land Acquisition”. Mr. Keegan stated the word “eminent domain” has to be in the article because that specifically gives the authority to the Board of Selectmen to do that. Ms. Bernard stated they were just talking about the title. Mr. DeVellis stated this is sponsored by the Town Clerk instead of the Board of Selectmen, which seems a little unusual as Mr. DeVellis doesn’t remember the Town Clerk sponsoring this. Mr. Keegan stated it should be by the Board of Selectmen. Ms. Bernard stated that the Town Clerk had written the wording for them but it should be the Board of Selectmen.

Ms. Bernard stated they are making good progress on this list trying to keep it rolling.

Motion by James DeVellis to approve Article #18 as amended. Seconded by John Gray. **Vote 5-0-0**

Mr. DeVellis asked on Article #23 why the town is taking this property. Mr. Keegan stated this is dealing with an NGRID acquisition for a right-of-way and there is a small piece that they can't seem to locate the actual deed to it but it seems that the town may have actually taken the land by tax title but no one can seem to find the actual document that says that. The town has to take it and then it will actually be provided back to NGRID for the right-of-way. Mr. DeVellis stated so we are actually taking something that we have no right or title to. Mr. Keegan stated there is no clear title. Mr. Keegan stated they are 99% certain that we own it, it is just the fact that there is no document that can be located. Bob Cutler did a title search on it and he couldn't seem to locate this one small piece. Ms. Brue stated it is a small strip that runs across the railroad tracks on Elm Street. Mr. Gray asked if this would have been an action taken at town meeting to do that. Mr. Keegan stated if it was done through tax title then what happened was the Treasurer just takes the property for the town and it may have been just not recorded that way. To clear that piece up the best way to do it is to take it by eminent domain and then turn it over to NGRID to finalize the right-of-way. Mr. DeVellis stated usually to take it by eminent domain there is a process to go through and we are just taking it to town meeting to say that we are taking it. Mr. Keegan stated what happens is it will just authorize the Board of Selectmen to take it so then they have the authority to take it afterwards. Then the process would be for counsel to advise them how to take it; you can't take it without town meeting. Mr. DeVellis asked if legal counsel has reviewed this and to have done a title search going back to the 1800's before they get to this point. Mr. Keegan stated that Bob Cutler did the actual title research and he went to the Registry of Deeds and couldn't locate anything there.

Motion by Lorraine Brue to accept Article #23 – Land Acquisition for town meeting with the title amended to “Land Acquisition” from “Taking” and the sponsor is the Board of Selectmen. Seconded by John Gray. **Vote 5-0-0**

Ms. Bernard stated that they had Article #24 that was going to be discussed tonight but they will discuss that on March 31, 2015.

Ms. Coppola stated that she would like to find out from Mr. Hill what the capacity is that is going to be requested for each street (how many gallons). Ms. Coppola would like to start keeping a tally of gallons per day.

#### **9:05pm – CORI Policy – Mary Beth Bernard**

Ms. Bernard stated that she had given a draft copy of the policy to the Board in their packets. Under Mass General Law Chapter 6, Section 171A the town of Foxborough is an agency that is required to maintain a CORI policy. In this policy Ms. Bernard would be the designated representative as she is CORI certified. Also within this policy it requires that they keep the results confidential and they ensure the proper verification and they followed the dissemination

rules, the restrictions and also follow a filing and destruction process. They have had a drafted policy on adverse decisions so if they are going to make an adverse employment act action they have a letter that they give to the people. A model letter has been looked at by legal counsel. Ms. Bernard wanted to note that the schools and police already have their own jurisdictional policy so this would cover the town. Currently in the town, the Council on Aging is authorized to do CORI's as well as Recreation and Ms. Bernard has seen both of their packets and they are very comprehensive so as far as anyone who is authorized to do this you have to maintain training. Ms. Bernard has done the training six times and now it is only available online and she hasn't done any face-to-face training since the CORI reform and ICORI, those are her two most recent trainings. Ms. Bernard will continue to participate in the DCJIS training. Ms. Brue asked if all the areas are up to date on their training in which Ms. Bernard stated yes. Ms. Bernard had met with both Ms. Lowe and Ms. Giardino and they are up to date with theirs and she also spoke with Mr. Yukna and Mr. McGowan at the schools and their policy is being revised to include fingerprinting, which is a new policy for schools so that is going before the School Committee. Their last policy that they had given Ms. Bernard was dated 2013 so they are revising their policy right now.

This would cover all new employees, volunteers and if they have an intern they could extend it to board members, which is how they handled it before in Westwood. Ms. Bernard would like to create a schedule of administering CORI's to current employees so they would re-CORI everyone. Mr. Gray asked if this meant volunteers on all town boards. Ms. Bernard stated yes, the requirement that they look at is if they are going to be exposed to a vulnerable population so say a Recreation board member participates in a recreation program or a Library Trustee sits in on a program or Council on Aging board member is in a program, to be safe, Ms. Bernard and Mr. Keegan have discussed this and it may be the next reappointment date after town meeting that they hold an orientation for new board members and they cover some of these things including CORI's or they have a packet for new board members that include that. Those are the kinds of things they wanted to bring up for discussion this evening.

Ms. Bernard is also going to be sharing this policy with the Child Sexual Abuse Committee (she sent a draft) and she is meeting with them in April as they took a great interest in what the town's CORI policy was.

All of the forms have been reviewed by town counsel and they are submitting them to the Board of Selectmen tonight for their comments and review.

Mr. Gray stated in Section 2 it states "the Assistant Town Manager must keep a current list of each individual who is authorized to have access to new CORI's". Has that list been realized yet? Ms. Bernard stated she believes that Chief O'Leary would be the person that she would go to if she had a concern, which is the process she used in Westwood. The Town Manager would of course also be able to see that so they are going to make an adverse selection about employment. Mr. Gray stated it would be a short list. Ms. Bernard stated usually the Town Manager and the Police Chief and what happens is you take in-depth information and when you get someone's license you get some other identifying factors so say you hire employee John Smith and four of them come up on a CORI report, now she can go back to the mother's maiden name, eye color, height and look at those things and then further refine it and then bring it to them and say this

appears to be the John Smith with blue eyes and whose mother's last name is this and I need to inform them that they may be making an adverse hiring situation because of their background. There is a check and balance. Those would be the only two people that she would imagine being on that list.

Mr. Gray asked apart from approving the policy what is their role in this. Mr. Keegan stated that they wanted to review it with the Board so they are aware of it and he would actually approve it because it is a working policy for the operations but there are two lines on this stating review with the Board of Selectmen on this date and then approved by the manager on this date.

Mr. DeVellis thanked Ms. Bernard as they had started looking at this two years ago with the Child Sexual Abuse Awareness Committee and they had asked for different people and got four different answers; the school committee who are very good at what they do, the police who are very good at what they do, but Recreation, DPW, the Library and Council on Aging, were all over the place as to who does it. He was with them Thursday night so they probably have started reviewing it and they may have some comments but they were thrilled that this is finally in one place. This policy is going to be the basis of what they use for the youth coaches, basketball and all those things. This is a very important document and you know she spent a lot of time on it.

Ms. Coppola stated that Ms. Bernard had stated that people would be CORI'd annually. Ms. Bernard stated the practice they had used that she has been trained on is for those people dealing with the vulnerable population or going into people's homes they would want to do it on an annual basis so if you have inspectors or Council on Aging or the Library they would want to do it on an annual basis, recreational counselors and those type of people but for the board members they used to do it by term.

Ms. Coppola stated years ago when you tried to do CORI checks there was a backlog and it would take months to get anything. Ms. Bernard stated she can get it within 30 minutes sometimes. It is all ICORI and it goes right through the system and it comes right back. When they take a little longer that is when she gets concerned because sometimes there may be a record on file. Ms. Bernard stated they are really quick and she would consider 24 hours to be a long time.

### **9:13pm – Town Manager Update**

Mr. Keegan stated last Tuesday he attended the New England Leadership Summit in Boston "Closing the Next Smartest Growth Deal" and it was all about hearing from experts from around the country talking about what has been going on in terms of smart growth and some of the newest ideas coming down the road. There were a number of really great speakers that presented that day. He was able to meet the new Secretary of Development and the Secretary of Transportation and both expressed an interest in talking to us further down the road about some of the things that are going on here in Foxborough. It was a very productive day for him and he enjoyed hearing about what could potentially start happening here in Foxborough for the next generation with development and how we really need to start thinking about long-term. There are some really interesting ideas of how they are looking at transportation for the future and they

are looking at a gondola system to transport people around the city because it is a much cheaper system and it is being used over in Europe.

Mr. Keegan, Ms. Bernard, and Mr. DeVellis attended the breakfast of the YMCA at Patriot Place this morning. Governor Baker spoke along with Mr. Kraft and there were 550 people at this meeting this morning and he was overwhelmed at how successful this program has become. He thinks everyone in the room had donated something by the end of the day because it was really productive.

They have been doing a lot of collective bargaining and they met again this morning with the Town Hall Workers and they continue to move forward on that. They still have a couple of more meetings set up with them. Their goal is to try to get something done for this town meeting.

They had an Operational Improvements in Communications meeting with police, fire, and dispatch yesterday and they noticed that there are some gaps in communication with how things are done and operationally there is some improvements that can be made so they had their first step discussion yesterday and they are trying to come up with a process where if there is a problem with how calls are handled there will be a method of handling that and reviewing them and then dissecting that to come up with a newer way of handling those things. There has been an ongoing friction about how it is supposed to be handled and now it is a case with coming up with the process where those issues can be heard and corrected and then if they can't be corrected at one level they will take it to another level which would include both Mr. Keegan, and the two chiefs to try to come up with a method of resolving it. Ms. Bernard would also be involved at some level also.

It was brought to Mr. Keegan's attention the last few days that Verizon has been contacting residents about their copper cable connection and that you can actually have those removed from your property. They are offering residents the opportunity to do that. Mr. Keegan has to verify this but he has been told that the way they are presenting that is that it is not an optional thing and if you effectively don't have telephone service any longer and you just have a cell phone service or you have cable service that you no longer have a need for hard wire service into your home and therefore they can take the service down. The way Mr. Keegan understands it is that it is only optional; it is not something that can be done and can be forced upon you. They are going to bring in the Verizon representatives and sit down with them and go over that. Sometimes what happens is that the field representatives don't communicate the same way that the representatives do on the issue. Obviously FIOS is their new direction, they are using the fiber optic lines as opposed to the copper wire lines now and that is where they are channeling all of their communication equipment. Ms. Coppola stated as a point of clarification if you had the copper wiring removed from your house but the fiber optic is still there and if you sell your house and the new people want to retain the landline they can, there will always be line capability. Mr. Keegan stated that you will always have landline capability especially if you have fiber optics but if you don't then they have to maintain the copper line there because that's your only other option.

Mr. Keegan taped another show last Friday which is coming out today (Ask Bill Keegan Show) and he had Roger Hill as his guest talking about all of the winter storms and all of the things that they have handled through the past several months.

The Capital Budgeting process took place on Saturday. They started up at 8:00am and finished at 1:00pm and had a very productive discussion. They've funded just about all of the items on the list with the exception of the one vehicle request which they later resolved through pulling that vehicle off the list and put back into the pool in a different way. Mr. Keegan has since been told today that they might not be able to fund the large truck because there are some limitations through the Chapter 90 funding that they can't use it. Mr. Hill stated that he would forgo that until next year so they will still have a balanced budget. The list has shrunk to a much more manageable level so they would therefore be in a much better position to address most of the issues that came through the door.

Mr. Keegan stated the turf field lighting was approved so that was a \$165,000 request which was a much reduced request because of the discount that has been received on the lighting itself. Mr. Keegan stated that the Sam Berns family was very helpful in making that happen.

Mr. Keegan stated they had an unintentional situation that occurred where signatures were collected for a ballot question recently by one of our employees and it was done and the names were collected while a person was on duty while unknowingly not realizing this could be done in Massachusetts. That person had worked in another jurisdiction outside of Massachusetts where the rules were different and that person was not aware of this situation. The article was in the newspaper and Mr. Keegan agreed to address it immediately which they did, and then on Monday morning they put the word out to all employees that collection of signatures for ballot questions, ballot issues or for candidates cannot be done while the person is on duty or wearing a town uniform. There are strict regulations and Massachusetts laws that prohibit that. They have provided employees with the advisory from the State Ethics Commission as to what can and can't be done as well as they are going to provide some additional training to the employees as well. Mr. Keegan stated that it was interesting because there are parts of the documents that they provide now that don't really specifically speak to this issue so they found a gap in the process of how that training should be done. The person that did it was completely remorseful about it and apologized profusely.

Ms. Brue stated that they had a meeting with Dan Murphy who provided them with an update of some issues that were going on with the Kraft organization so they invited him to come in front of the Board to give the Board a full presentation on this. Mr. Keegan stated that they will work with Mr. Murphy to set up a time and it is always good to get that dialogue going and there are some interesting things going on that they have planned for and Mr. Keegan thinks it is a good thing.

Motion by John Gray to adjourn at 9:27pm. Seconded by David Feldman. **Vote 5-0-0**